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## ORDER

To the extent a certificate of appealability must issue before Petitioner can appeal,<sup>2</sup> it is denied. *See* 28 U.S.C. §2253(c) and Fed. R. App. P. 22(b)(1). Federal Rule of Appellate Procedure 22(b) requires the district court that rendered a judgment denying the petition to "either issue a certificate of appealability or state why a certificate should not issue."

<sup>2</sup> Although Petitioner has brought his claims in a § 2241 petition, a certificate of appealability is required where a § 2241 petition attacks the petitioner's conviction or sentence. *See Porter v. Adams*, 244 F.3d 1006 (9th Cir. 2001).

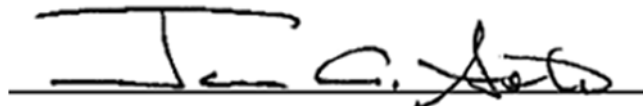
1 Additionally, 28 U.S.C. §2253(c)(2) provides that a certificate may issue "only if the  
2 applicant has made a substantial showing of the denial of a constitutional right." In the  
3 certificate, the court must indicate which specific issues satisfy this showing. *See* 28  
4 U.S.C. §2253(c)(3). A substantial showing is made when the resolution of an issue of  
5 appeal is debatable among reasonable jurists, if courts could resolve the issues differently,  
6 or if the issue deserves further proceedings. *See Slack v. McDaniel*, 529 U.S. 473, 484-85  
7 (2000). Upon review of the record in light of the standards for granting a certificate of  
8 appealability, the Court concludes that a certificate shall not issue as the resolution of the  
9 petition is not debatable among reasonable jurists and does not deserve further proceedings.

10 Accordingly, IT IS HEREBY ORDERED as follows:

- 11 (1) The Report and Recommendation (Doc. 21) is accepted and adopted.  
12 (2) Petitioner's §2241 habeas petition is denied; this case is dismissed with prejudice.  
13 (3) A Certificate of Appealability is denied and shall not issue.  
14 (4) The Clerk of the Court shall enter judgment accordingly and close the file in this matter.  
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16 Dated this 23rd day of April, 2019.  
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Honorable James A. Soto  
United States District Judge